



**State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES**

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Circle Tri Cleaners  
58 South Main Street  
Plymouth, NH 03264

**ADMINISTRATIVE ORDER  
No. WMD 03-20**

**August 22, 2003**

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to Circle Tri Cleaners pursuant to RSA 147-A:14. This Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 6 Hazen Drive, Concord, NH 03301.
2. Circle Tri Cleaners is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on September 29, 1981. Circle Tri Cleaners has a mailing address of, and operates a facility located at, 58 South Main Street, Plymouth, NH 03264.

**C. STATEMENT OF FACTS AND LAW**

1. RSA 147-A authorizes DES to regulate the management, including storage, treatment, containerization, transportation, and disposal of hazardous wastes. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted New Hampshire Administrative Rules Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Circle Tri Cleaners is a hazardous waste generator that initially notified the United States Environmental Protection Agency ("EPA") of its activities in Plymouth, NH, through DES on July 27, 1983. EPA Identification Number NHD088576921 was assigned to Circle Tri Cleaners' site located at 58 South Main Street, Plymouth, NH (the "Facility")
3. On May 08, 2003, DES personnel conducted an inspection (the "Inspection") of the Facility. The purpose of the Inspection was to investigate a discharge of tetrachloroethylene to the Plymouth Publicly Owned Treatment Works ("POTW"), and to determine Circle Tri Cleaners' compliance status relative to RSA 147-A and the Hazardous Waste Rules.

4. During the Inspection, DES personnel observed one (1) tetrachloroethylene dry cleaning unit at the Facility.
5. During the Inspection, DES personnel observed four (4) 15-gallon containers of hazardous waste tetrachloroethylene.
6. At the time of the Inspection, Peter Smith, owner of Circle Tri Cleaners, stated that rinse water, from the cleaning of the dry cleaning unit's water/solvent separator, is discharged directly to the Plymouth POTW. Mr. Smith stated that the cleaning is performed once per month.
7. At the time of the Inspection, Peter Smith, stated that after cleaning the dry cleaning unit's water/solvent separator on May 06, 2003, the failure to reset a valve resulted in a discharge of tetrachloroethylene directly to the Plymouth POTW.
8. Tetrachloroethylene is a toxic hazardous waste listed in Env-Wm 402.05 with an EPA hazardous waste number of U210.
9. At the time of the Inspection, Peter Smith stated that he added sixty (60) gallons of tetrachloroethylene to the dry cleaning unit on May 08, 2003 to replace the tetrachloroethylene that was discharged to the Plymouth POTW.
10. The failure to reset the valve resulted in an estimated discharge of sixty (60) gallons of hazardous waste tetrachloroethylene to the Plymouth POTW.
11. Discharge of the hazardous waste tetrachloroethylene from the dry cleaning unit to the POTW is a form of disposal which would require a hazardous waste facility permit.
12. RSA 147-A:4, I, requires any person operating a hazardous waste facility to first obtain a permit from DES.
13. Env-Wm 353.01 specifies that an operator can obtain a hazardous waste disposal permit through DES provided the conditions specified in Env-Wm 353 are met.
14. DES has no record of receiving a hazardous waste disposal permit application from Circle Tri Cleaners to discharge the hazardous waste tetrachloroethylene into the Plymouth POTW, and no such permit has been issued.
15. Circle Tri Cleaners disposed of the hazardous waste tetrachloroethylene to the Plymouth POTW without a hazardous waste disposal permit.
16. RSA 147-A:9 states that any generator or operator who causes or suffers the disposal of hazardous waste in violation of RSA 147-A shall be strictly liable for costs directly or indirectly resulting from the violation relating to:
  - (a) Containment of hazardous wastes;
  - (b) Necessary cleanup and restoration of the site and the surrounding environment; and
  - (c) Removal of the hazardous wastes.

17. As a result of the discharge from Circle Tri Cleaners to the Plymouth POTW, 292,262 pounds of hazardous waste tetrachloroethylene contaminated sewer sludge was removed from the Plymouth POTW.

18. Circle Tri Cleaners is liable for the cost incurred by DES for the containment, cleanup or removal of hazardous waste tetrachloroethylene from the Plymouth POTW. (See the attached Analytical Report).

19. Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste.

20. At the time of the Inspection, no formal hazardous waste determination had been performed on the rinse water from the cleaning of the dry cleaning unit's water/solvent separator.

21. Env-Wm 507.01(a) requires hazardous waste to be placed in containers or tanks.

22. During the Inspection, DES personnel observed hazardous waste "tetrachloroethylene contaminated lint" that was stored in a hopper attached to the dry cleaning unit; the hopper does not meet the definition of a container or tank.

23. Env-Wm 507.01(c) specifies that hazardous waste containers may not be stored in areas with functional floor drains unless secondary containment is provided around all hazardous waste container storage areas.

24. During the Inspection, DES personnel observed three (3) containers of hazardous waste in areas with functional floor drains; secondary containment was not provided.

25. Env-Wm 507.03(a)(1)b., c., and d. require containers and tanks used for the storage of hazardous waste to be clearly marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number.

26. During the Inspection, DES personnel observed three (3) containers of hazardous waste tetrachloroethylene that were not marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number. (See the attached Hazardous Waste Container Inventory).

27. Env-Wm 508.03(a), which references 40 CFR Part 265 Subpart I, Use and Management of Containers, requires small quantity generators utilizing the extended quantity and storage provision to conduct weekly inspections of all hazardous waste containers.

28. At the time of the Inspection, Circle Tri Cleaners was not conducting inspections of the hazardous waste containers.

29. Env-Wm 508.03(e), requires small quantity generators utilizing the extended quantity and storage provision to post at the nearest telephone to each hazardous waste storage area, the name and telephone number, both home and work, of the emergency coordinators; the telephone numbers of the fire department, police department, hospital and state of New Hampshire and local emergency response teams; and the location of fire extinguishers, spill control material and if present, fire alarm.

30. At the time of the Inspection, Circle Tri Cleaners did not have an emergency posting at the nearest telephone to the hazardous waste storage area.
31. Env-Wm 508.03(f) requires small quantity generators utilizing the extended quantity and storage provision to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.
32. At the time of the Inspection, Circle Tri Cleaners personnel were not familiar with proper waste handling and emergency procedures including container management, container use, container labeling and emergency action and reporting.
33. Env-Wm 508.03(g), which references 40 CFR Part 265 Subpart C, Preparedness and Prevention, requires small quantity generators utilizing the extended quantity and storage provision to maintain and operate the facility in a manner to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste to air, soil or surface water which could threaten human health or the environment.
34. At the time of the Inspection, Circle Tri Cleaners was operating a tetrachloroethylene dry cleaning unit within three (3) feet of a floor drain that discharges directly to the Plymouth POTW.
35. At the time of the Inspection, Peter Smith stated that tetrachloroethylene was discharged from the dry cleaning unit to the floor drain on May 06, 2003.
36. At the time of the Inspection, Circle Tri Cleaners was not operating the dry cleaning unit in a manner to minimize the possibility of a release of hazardous waste to surface waters via the Plymouth POTW.
37. Env-Wm 513.01(a) requires a generator to report any discharge of hazardous waste or any discharge of a material which when discharged becomes a hazardous waste that poses a threat to human health or the environment (e.g., into a storm drain or sanitary sewer), immediately, not to exceed one hour from the discovery of the release, to local emergency officials and DES.
38. At the time of the Inspection, Peter Smith stated that the release of hazardous waste tetrachloroethylene to the Plymouth POTW was discovered at 11 a.m. on May 06, 2003.
39. DES has no record of receiving a report from Circle Tri Cleaners regarding the release of hazardous waste tetrachloroethylene on May 06, 2003.

#### **D. DETERMINATIONS AND NOTICE OF VIOLATIONS**

1. Circle Tri Cleaners has violated RSA 147-A:4, /Env-Wm 353.01 by disposing of hazardous waste without a permit.
2. Circle Tri Cleaners is liable for costs directly or indirectly resulting from the discharge of hazardous waste tetrachloroethylene to the Plymouth POTW, under RSA 147-A:9.

3. Circle Tri Cleaners has violated Env-Wm 502.01 by failing to adequately determine if its waste is a hazardous waste.
4. Circle Tri Cleaners has violated Env-Wm 507.01(a) by failing to store hazardous waste in a container or tank.
5. Circle Tri Cleaners has violated Env-Wm 507.01(c) by storing hazardous waste containers near a floor drain without secondary containment.
6. Circle Tri Cleaners has violated Env-Wm 507.03(a)(1)b., c., and d. by failing to mark each container storing hazardous waste with the words "hazardous waste", words to identify the contents of the container, and the EPA or state waste number at the time they are first used to store hazardous waste.
7. Circle Tri Cleaners has violated Env-Wm 508.03(a) by failing to conduct inspections of the hazardous waste storage areas.
8. Circle Tri Cleaners has violated Env-Wm 508.03(e) by failing to post emergency information at the nearest telephone to the hazardous waste storage area.
9. Circle Tri Cleaners has violated Env-Wm 508.03(f) by failing to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.
10. Circle Tri Cleaners has violated Env-Wm 508.03(g) by failing to operate in a manner to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste to air, soil or surface water which could threaten human health or the environment.
11. Circle Tri Cleaners has violated Env-Wm 513.01(a) by failing to report a discharge of hazardous waste into the sanitary sewer, immediately, not to exceed one hour from the discovery of the release, to local emergency officials and DES.

#### **E. ORDER**

Based on the above findings, DES hereby orders Circle Tri Cleaners as follows:

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| Cease disposal of hazardous waste without a permit and do not discharge hazardous waste to the Plymouth POTW.  | <b>IMMEDIATELY</b> |
| 2. Reimburse DES \$2,554.00, the costs incurred by DES for the analysis of samples collected from the Plymouth POTW.   | <b>30 DAYS</b>     |
| 3. Perform a hazardous waste determination as specified in Env-Wm 502.01 for the dry cleaning unit's water/solvent separator rinse water; and submit the results along with any supporting data used to make the hazardous waste determination to DES. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules. | <b>30 DAYS</b>     |

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| 4.  | Ensure that hazardous waste is stored only in tanks or containers as specified in Env-Wm 507.01(a).  | <b>IMMEDIATELY</b> |
| 5.  | Ensure that hazardous waste is not stored near a floor drain without the required secondary containment, as specified in Env-Wm 507.01(c).   | <b>IMMEDIATELY</b> |
| 6.  | Ensure that all hazardous waste containers and tanks are clearly marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number, as specified in Env-Wm 507.03(a)(1)b., c., and d.  | <b>IMMEDIATELY</b> |
| 7.  | Maintain a container management program as specified in Env-Wm 508.03(e), which references 40 CFR Part 265 Subpart I, Use and Management of Containers. This program must provide for, at a minimum, weekly inspections of areas where hazardous wastes are stored.  | <b>IMMEDIATELY</b> |
| 8.  | Ensure that the name and telephone number, both home and work, of the emergency coordinators; the telephone numbers of the fire department, police department, hospital and state of New Hampshire and local emergency response teams; and the location of fire extinguishers, spill control material and if present, fire alarm are posted at the nearest telephone to each hazardous waste storage area, as specified in Env-Wm 508.03(e). | <b>IMMEDIATELY</b> |
| 9.  | Ensure that that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies, as specified in Env-Wm 508.03(f).   | <b>15 DAYS</b>     |
| 10. | Ensure that the Facility is operated in a manner that minimizes the possibility of any unplanned sudden or non-sudden release of hazardous waste to air, soil or surface water which could threaten human health or the environment, as specified in Env-Wm 508.03(g). This may be accomplished by sealing or containing the Facility's floor drain in a manner that prevents the release of material to the Plymouth POTW.                  | <b>IMMEDIATELY</b> |
| 11. | Ensure that any discharge of hazardous waste that poses a threat to human health or the environment is reported to local emergency officials and DES immediately after the discovery of the release.   | <b>IMMEDIATELY</b> |

12. Submit a written status report to DES within thirty-five (35) calendar days of receipt of this Order, certifying that corrective measures have been implemented and compliance achieved. Include in the report supporting documentation describing those measures taken to achieve compliance and copies of any written plans or proceedings developed.
3. Please address all submittals, **other than appeals**, to

Kenneth W. Marschner, Administrator  
DES, WMD  
6 Hazen Drive  
Concord, NH 03301

#### F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from DES's Public Information Center at (603) 271-2975 or at <http://www.des.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Circle Tri Cleaners of the obligation to comply with the Order.

#### G. OTHER PROVISIONS

Please note that RSA Ch. 147-A provides for civil and criminal penalties and administrative fines for violations of the statute or any rule adopted by DES relative to the statute, as well as for violations of this Order. RSA 147-A:17 provides for civil forfeitures of up to \$50,000 for each day of a continuing violation, in addition to enforcement by injunctive relief.

DES will continue to monitor the compliance status of Circle Tri Cleaners to determine whether the Facility has come into, and is maintaining, full compliance with the applicable rules. Future violations will result in additional enforcement action being taken.

Circle Tri Cleaners may assert a confidentiality claim covering part or all of the information requested which constitutes a trade secret, in accordance with RSA 147-A:7, II. If no such claim accompanies the information when it is received by DES, it may be made available to the public by DES without further notice to Circle Tri Cleaners.



Philip J. O'Brien, Ph.D., P.G.  
Director, Waste Management Division  
Department of Environmental Services



Michael P. Nolin, Commissioner  
Department of Environmental Services

cc: DB/RCRA/ORDER/ARCHIVE  
Gretchen Rule, Esq., Administrator, DES Legal Unit  
Public Information Coordinator, DES  
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Town Clerk, Plymouth, NH  
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Sharon Ducharme, DES - WD  
Kirk Young, Facility Operator, Plymouth Village Municipal Treatment Plant, 53 South St., Plymouth, NH 03264

Enclosure: Hazardous Waste Inspection Report with Container Inventory  
Sample Posting  
Analytical Report

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